

CHAPTER NO. 238

SENATE BILL NO. 758

By Hagood, Burchett

Substituted for: House Bill No. 524

By Strader

AN ACT to amend Tennessee Code Annotated, Section 69-9-215, relative to liability of boat owners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-9-215(a), is amended by deleting that subsection in its entirety and by substituting instead the following new subsection (a):

(a)(1) The owner of a vessel, other than a bona fide person engaged in the business of renting boats or a person engaged in the business of selling, repairing or manufacturing boats that loans a boat to a consumer or potential consumer on a temporary basis, shall be liable for any injury or damage occasioned by the negligent operation of that vessel, whether such negligence consists of a violation of the laws of this state, or neglecting to observe such ordinary care and such operation as the rules of the common law require.

(2) The operator of a boat which has been rented from a person engaged in the business of renting boats or which is on temporary loan from a person engaged in the business of selling, repairing, or manufacturing boats shall be liable for any injury or damage occasioned by the negligent operation of that vessel, whether such negligence consists of a violation of the laws of this state or neglecting to observe such ordinary care and such operation as the rules of the common law require.

(3) Nothing contained in subdivisions (1) and (2) hereof shall prohibit the application of common law liability as a basis for liability of a bona fide person engaged in the business of renting boats or a person engaged in the business of selling, repairing or manufacturing boats that loans a boat to a consumer or potential consumer on a temporary basis for injury or damages occasioned by the negligent operation of that vessel.

SECTION 2. Tennessee Code Annotated, Section 69-9-215(b), is amended by designating the existing subsection as subdivision (b)(1) and by adding a new subdivision thereto, as follows:

(2) In all actions for injury to persons or property caused by the negligent operation or use of any boat, vessel or motor propelled watercraft within this state, proof of ownership of such vessel shall be prima facie evidence that such vessel at the time of the cause of action was being operated and used with authority, consent and knowledge of the owner in the transaction out of which such injury or cause of action arose, and such proof of ownership likewise shall be prima facie evidence that such vessel was being operated by the owner, or by the owner's servant, for the owner's use and benefit and within the course and scope of the servant's employment. The prima facie evidence provisions of this subdivision shall also apply in cases of the negligent operation of a vessel being test-driven by a prospective purchaser with the knowledge and consent of the seller or the seller's agent whether or not the seller or the seller's agent is present in the vessel at the time of the alleged negligent operation. This section is intended to be remedial and it is the legislative intent that it be given a liberal construction.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 11, 2005


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of May 2005


PHIL BREDESEN, GOVERNOR